

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	Case No. 08-CV-0577-WQH (JMA)
)	
Plaintiff,)	CASE MANAGEMENT CONFERENCE
)	ORDER REGULATING DISCOVERY AND
v.)	OTHER PRETRIAL PROCEEDINGS
)	
\$18,152.00 IN US CURRENCY, et)	(Fed. R. Civ. P. 16)
al.,)	(Local Rule 16.1)
)	(Fed. R. Civ. P. 26)
Defendants.)	
)	
)	

Pursuant to Rule 16 of the Federal Rules of Civil Procedure, an Early Neutral Evaluation Conference was held on August 5, 2008 at 10:00 a.m. After consulting with the attorneys of record for the parties and being advised of the status of the case, and good cause appearing,¹

IT IS HEREBY ORDERED:

1. Any motion to join other parties, to amend the pleadings, or to file additional pleadings shall be filed on or before October 3, 2008.

¹Fed. R. Civ. P. 26(a)(1)(B)(ii) provides that forfeiture actions are exempt from the initial disclosure requirements of Fed. R. Civ. P. 26(a)(1).

1 2. A telephonic Case Management Conference shall be held
2 before Magistrate Judge Adler on November 4, 2008 at 9:30 a.m.
3 Counsel for each party shall appear telephonically at this
4 conference. The Court will initiate the conference call.

5 3. Plaintiff(s) (or the party(ies) having the burden of
6 proof on any claim) shall serve on all parties a list of experts
7 whom that party expects to call at trial on or before October 31,
8 2008. Defendant(s) (or the party(ies) defending any claim,
9 counterclaim, crossclaim, or third party claim) shall serve on
10 all parties a list of experts whom that party expects to call at
11 trial on or before November 14, 2008. On or before November 28,
12 2008, any party may supplement its designation in response to any
13 other party's designation, so long as that party has not
14 previously retained an expert to testify on that subject. Expert
15 designations shall include the name, address, and telephone
16 number of each expert, and a reasonable summary of the testimony
17 the expert is expected to provide. The list shall also include
18 the normal rates the expert charges for deposition and trial
19 testimony.

20 The parties must identify any person who may be used at
21 trial to present evidence pursuant to Rules 702, 703 or 705 of
22 the Federal Rules of Evidence. This requirement is not limited
23 to retained experts.

24 **Please be advised that failure to comply with this section**
25 **or any other discovery order of the Court may result in the**
26 **sanctions provided for in Fed. R. Civ. P. 37, including a**
27 **prohibition on the introduction of experts or other designated**
28 **matters in evidence.**

1 4. All expert disclosures required by Fed. R. Civ. P.
2 26(a)(2) shall be served on all parties on or before December 12,
3 2008. Any contradictory or rebuttal information shall be
4 disclosed on or before January 9, 2009. In addition, Fed. R.
5 Civ. P. 26(e)(1) imposes a duty on the parties to supplement the
6 expert disclosures made pursuant to Fed. R. Civ. P. 26(a)(2)(B)
7 by the time that pretrial disclosures are due under Fed. R. Civ.
8 P. 26(a)(3) (discussed below). This disclosure requirement
9 applies to all persons retained or specially employed to provide
10 expert testimony, or whose duties as an employee of the party
11 regularly involve the giving of expert testimony.

12 **Please be advised that failure to comply with this section**
13 **or any other discovery order of the Court may result in the**
14 **sanctions provided for in Fed. R. Civ. P. 37, including a**
15 **prohibition on the introduction of experts or other designated**
16 **matters in evidence.**

17 5. All discovery shall be completed by all parties on or
18 before February 6, 2009. "Completed" means that all discovery
19 under Rules 30 through 36 of the Federal Rules of Civil Procedure
20 must be initiated a sufficient period of time in advance of the
21 cutoff date, so that it may be completed by the cutoff date,
22 taking into account the times for service, notice, and response
23 as set forth in the Federal Rules of Civil Procedure. All
24 disputes concerning discovery shall be brought to the attention
25 of Magistrate Judge Adler no later than thirty (30) days
26 following the date upon which the event giving rise to the
27 dispute occurred. For oral discovery, the event giving rise to
28 the discovery dispute is the completion of the transcript of the

affected portion of the deposition. For written discovery, the event giving rise to the discovery dispute is the service of the response. Counsel are required to meet and confer prior to contacting the Court regarding all discovery disputes pursuant to the requirements of Local Rules 16.5(k) and 26.1(a).

6. All motions, other than motions to amend or join parties, or motions in limine, shall be filed on or before **March 6, 2009**.² Motions will not be heard or calendared unless counsel for the moving party has obtained a motion hearing date from the law clerk of the judge who will hear the motion. Be advised that the period of time between the date you request a motion date and the hearing date may be up to sixty (60) days. Please plan accordingly. Failure of counsel to timely request a motion date may result in the motion not being heard.

Briefs or memoranda in support of or in opposition to any pending motion shall not exceed twenty-five (25) pages in length without leave of the judge who will hear the motion. No reply memorandum shall exceed ten (10) pages without leave of the judge who will hear the motion.

7. A Mandatory Settlement Conference shall be conducted on **May 28, 2009** at **10:00 a.m.** in the chambers of Magistrate Judge Adler. Counsel shall submit settlement statements **directly** to Magistrate Judge Adler's chambers no later than **May 21, 2009**.³ The parties may either submit confidential settlement statements

²Counsel should note that while historically motion cutoff deadlines issued by this Court were deadlines for motion hearings, the motion cutoff dates now being issued establish deadlines for the parties to file motions.

³Statements may be delivered directly to chambers, e-mailed to efile_adler@casd.uscourts.gov, or faxed to (619) 702-9939.

1 or may exchange their settlement statements. Each party's
2 settlement statement shall set forth the party's statement of the
3 case, identify controlling legal issues, concisely set out issues
4 of liability and damages, and shall set forth the party's
5 settlement position, including the last offer or demand made by
6 that party, and a separate statement of the offer or demand the
7 party is prepared to make at the settlement conference. **The**
8 **settlement conference briefs shall not be filed with the Clerk of**
9 **the Court.**

10 All named parties, all counsel, and any other person(s)
11 whose authority is required to negotiate and enter into
12 settlement shall appear in person at the conference. The
13 individual(s) present at the Mandatory Settlement Conference with
14 settlement authority must have the unfettered discretion and
15 authority on behalf of the party to: 1) fully explore all
16 settlement options and to agree during the Mandatory Settlement
17 Conference to any settlement terms acceptable to the party (G.
18 Heileman Brewing Co., Inc. v. Joseph Oat Corp., 871 F.2d 648, 653
19 (7th Cir. 1989)), 2) change the settlement position of a party
20 during the course of the Mandatory Settlement Conference (Pitman
21 v. Brinker Int'l, Inc., 216 F.R.D. 481, 485-86 (D. Ariz. 2003)),
22 and 3) negotiate a settlement without being restricted by any
23 predetermined level of authority (Nick v. Morgan's Foods, Inc.,
24 270 F.3d 590, 596 (8th Cir. 2001)).

25 Governmental entities may appear through litigation counsel
26 only. As to all other parties, appearance by litigation counsel
27 only is not acceptable. Retained outside corporate counsel shall
28 not appear on behalf of a corporation as the party who has the

1 authority to negotiate and enter into a settlement. **The failure**
2 **of any counsel, party or authorized person to appear at the**
3 **Mandatory Settlement Conference as required will result in the**
4 **immediate imposition of sanctions.** All conference discussions
5 will be informal, off the record, privileged, and confidential.

6 8. The parties must comply with the pretrial disclosure
7 requirements of Fed. R. Civ. P. 26(a)(3) no later than June 15,
8 2009.

9 9. No Memoranda of Contentions of Fact and Law are to be
10 filed except in a bench trial. In that case, counsel shall serve
11 on each other and file with the Clerk of the Court their
12 Memoranda of Contentions of Fact and Law in compliance with Local
13 Rule 16.1(f)(2) on or before June 15, 2009.

14 10. Counsel shall confer and take the action required by
15 Local Rule 16.1(f)(4) on or before June 22, 2009.

16 11. The Proposed Final Pretrial Conference Order, including
17 written objections, if any, to any party's Fed. R. Civ. P.
18 26(a)(3) pretrial disclosures, shall be prepared, served, and
19 lodged with the Clerk's Office on or before June 29, 2009 and
20 shall be in the form prescribed in Local Rule 16.1(f)(6). Any
21 objections shall comply with the requirements of Fed. R. Civ. P.
22 26(a)(3). **Please be advised that the failure to file written**
23 **objections to a party's pretrial disclosures may result in the**
24 **waiver of such objections, with the exception of those made**
25 **pursuant to Rules 402 (relevance) and 403 (prejudice, confusion**
26 **or waste of time) of the Federal Rules of Evidence.**

27 12. The final pretrial conference is scheduled on the
28 calendar of the Honorable William Q. Hayes on July 6, 2009 at

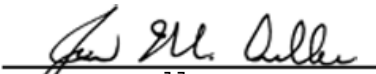
1 11:00 a.m. The trial date will be assigned by Judge Hayes at the
2 pretrial conference.

3 13. The dates and times set forth herein will not be
4 modified except for good cause shown.

5 14. Plaintiff's(s') counsel shall serve a copy of this order
6 on all parties that enter this case hereafter.

7 **IT IS SO ORDERED.**

8 DATED: August 5, 2008

9 
10 Jan M. Adler
U.S. Magistrate Judge